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Revised Edition

# How Canadians Govern Themselves

Eugene A. Forsey

Canada

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# Preface

This booklet is published by the Government of Canada in the interest of contributing to greater public understanding of Canada's system of government, its origins, and how it operates.

The Table Research Branch of the House of Commons prepared the revised version of the contents in consultation with the author.

For the purposes of this revised and updated publication, the author has adapted some material taken from an earlier edition prepared by Joseph Schull and published under the same title in 1971.

Special thanks are extended to the Hon. John A. Fraser, P.C., Q.C., M.P., Speaker of the House of Commons, for initiating the printing of this revised version, the updating of which was co-ordinated through his office.

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# Note on the Author

The Honourable Eugene A. Forsey is widely regarded as one of Canada's foremost experts on the country's Constitution.

Born in Grand Bank, Newfoundland, he attended McGill University in Montreal and studied at Britain's Oxford University as a Rhodes Scholar. He has also received numerous honorary degrees.

From 1929 to 1941, Mr. Forsey served as a lecturer in economics and political science at McGill.

In 1942, he became director of research for the Canadian Congress of Labour (CCL) – a post he held for 14 years. From 1956 to 1966, he served as director of research for the CCL's successor, the Canadian Labour Congress, and from 1966 to 1969, as director of special projects.

During most of his union career, he taught Canadian government at Carleton University in Ottawa and, later, at the University of Waterloo. From 1973 to 1977, he served as chancellor of Trent University.

Mr. Forsey ran for public office four times for the Co-operative Commonwealth Federation (CCF). In the 1930s, he helped draft the Regina Manifesto, the CCF's founding constitution.

Mr. Forsey was appointed to the Senate in 1970. He retired in 1979 at the mandatory retirement age of 75.

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# Introduction

Governments in democracies are elected by the passengers to steer the ship of the nation. They are expected to hold it on course, to arrange for a prosperous voyage, and to be prepared to be thrown overboard if they fail in either duty.

This, in fact, reflects the original sense of the word "government," as its roots in both Greek and Latin mean "to steer."

Canada is a democracy, a constitutional monarchy. Our head of state is the Queen of Canada, who is also Queen of Britain, Australia and New Zealand and a host of other countries scattered around the world from the Bahamas and Grenada to Papua-New Guinea and Tuvalu. Every act of government is done in the name of the Queen, but the authority for every act flows from the Canadian people. When the men who framed the basis of our present written Constitution, the Fathers of Confederation, were drafting it in 1867 they freely, deliberately and unanimously chose to vest the formal executive authority in the Queen, "to be administered according to the well understood principles of the British Constitution by the Sovereign personally or by the Representative of the Queen." That meant responsible government, with a cabinet responsible to the House of Commons and the House of Commons answerable to the people. Except when the Queen is in Canada, all her powers are now exercised by her representative, the Governor General. The Governor General, who is now always a Canadian, is appointed by the Queen on the advice of the Canadian prime minister and, except in very extraordinary circumstances, exercises all powers of the office on the advice of the cabinet (a council of ministers) which has the support of a majority of the members of the popularly-elected House of Commons.

Canada is not only an independent sovereign democracy, but is also a federal state, with 10 largely self-governing provinces and two territories controlled by the central government.

What does it all mean? How does it work?

The answer is important to every citizen. We cannot work, or eat, or drink; we cannot buy or sell or own anything; we cannot go to a ball game or a hockey game or watch TV without feeling the effects of government. We cannot marry or educate our children, cannot be sick, born or buried without the hand of government somewhere intervening. Government gives us railways, roads and airlines, sets the conditions that affect farms and industries, manages or mismanages the life and growth of the cities. Government is held responsible for social problems, and for pollution and sick environments.

And government is our creature. We make it, we are ultimately responsible for it, and, taking the broad view, in Canada we have considerable reason to be proud of it. Pride, however, like patriotism, can never be a static thing; there are always new problems posing new challenges. The closer we are to government, and the more we know about it, the more we can do to help meet these challenges.

This publication takes a look at our system of government and how it operates.

# Parliamentary government

## Its origins

Nova Scotia (which, until 1784, included what is now New Brunswick) was the first part of Canada to secure representative government. In 1758, it was given an assembly, elected by the people. Prince Edward Island followed, in 1773, New Brunswick at its creation in 1784, Upper and Lower Canada (the predecessors of the present Ontario and Quebec) in 1791, Newfoundland in 1832. Nova Scotia was also the first part of Canada to win *responsible* government: government by a cabinet answerable to, and removable by, a majority of the assembly (January 1848). New Brunswick followed in February, the Province of Canada (a merger of Upper and Lower Canada formed in 1840) in March, Prince Edward Island in 1851, and Newfoundland in 1855.

By the time of Confederation in 1867, therefore, this system had been operating in most of what is now Central and Eastern Canada for almost 20 years. The Fathers of Confederation simply continued the system they knew, the system that was already working, and working well.

For the nation, there was a Parliament, with a Governor General representing the Queen, an appointed upper house, the Senate, and an elected lower house, the House of Commons. For every province there was a legislature, with a lieutenant-governor representing the Queen; for every province except Ontario, an appointed upper house, the legislative council, and an elected lower house, the legislative assembly. The new Province of Manitoba, created by the national Parliament in 1870, was given an upper house. British Columbia, which entered Canada in 1871, and Saskatchewan and Alberta, created by Parliament in 1905, never had upper houses. Newfoundland, which entered Canada in 1949, came in without one. Manitoba, Prince Edward Island, New Brunswick, Nova Scotia and Quebec have all abolished their upper houses.

## How it operates

The Governor General and every lieutenant-governor governs through a cabinet, headed by a prime minister or premier (the two terms mean the same thing). If a general election, national or provincial, gives a party opposed to the cabinet in office a clear majority (that is, more than half the seats) in the House of Commons or the assembly, then the cabinet resigns, and the Governor General or lieutenant-governor calls on the leader of the victorious party to become prime minister and form a new cabinet. The prime minister chooses the other ministers, who are then formally appointed by the Governor General or, in the provinces, by the lieutenant-governor. If no party gets a clear majority, the cabinet that was in office before and during the election has two choices. It can resign, in which case the Governor General or lieutenant-governor will call on the leader of the largest opposition party to form a cabinet. Or the cabinet already in office can choose to stay in office and meet the newly elected House – which, however, it must do promptly. In either case, it is the people's representatives in the newly elected House who will decide whether the "minority" government (one whose own party has less than half the seats) shall stay in office or be thrown out.

If a cabinet is defeated in the House of Commons on a motion of censure or want of confidence, the cabinet must either resign (the Governor General will then ask the leader of the Opposition to form a new cabinet), or ask for a dissolution of Parliament and a fresh election.

In very exceptional circumstances, the Governor General could refuse a request for a fresh election. For instance, if an election gave no party a clear majority and the prime minister asked for a fresh election without even allowing the new Parliament to meet, the Governor General would have to say no. This is because, if "parliamentary government" is to mean anything, a newly elected Parliament must at least be allowed to meet and see whether it can transact public business. Also, if a minority cabinet is defeated on a motion of want of confidence very early in the first session of a new Parliament, and there is a reasonable possibility that a government of another party can be formed, and get the support of the House of Commons, then the Governor General could refuse the request for a fresh election. The same is true for the lieutenant-governors of the provinces.

No elected person in Canada above the rank of mayor has a "term." Members of Parliament or of a provincial legislature are normally elected for not more than five years, but there can be, and have been, Parliaments and legislatures that have lasted less than a year. The prime minister can ask for a fresh election at any time but, as we have just noted, there may be circumstances in which he would not get it. The cabinet has no "term." Every cabinet lasts from the moment the prime minister is sworn in till he resigns or dies. For example, Sir John A. Macdonald was prime minister from 1878 till he died in 1891, right through the elections of 1882, 1887 and 1891, all of which he won. Sir Wilfrid Laurier was prime minister from 1896 till 1911, right through the elections of 1900, 1904 and 1908, all of which he won. He resigned after being defeated in the election of 1911. The same thing has happened in several provinces. An American president or state governor, re-elected, has to be sworn in all over again. A Canadian prime minister or premier does not.

When a prime minister dies or resigns, the cabinet comes to an end. If this prime minister's party still has a majority in the Commons or the assembly, then the Governor General or lieutenant-governor must find a new prime minister at once. A prime minister who resigns has no right to advise the governor as to his successor unless asked, and even then his advice need not be followed. If he resigns because he has been defeated, the governor calls on the leader of the Opposition to form a government. If the prime minister dies, or resigns for personal reasons, then the governor consults leading members of the majority party as to who will be most likely to be able to form a government that can command a majority in the House. He then calls on the person he has decided has the best chance. This new prime minister will, of course, hold office only until the majority party has, in a national or provincial convention, chosen a new leader, who will then be called on to form a government.

The cabinet consists of a number of ministers. The national cabinet now usually has 30 or more, and provincial cabinets vary from about 10 to 26. Most of the ministers have "portfolios," that is, they are in charge of particular departments (Finance, External Affairs, Environment, Health and Welfare, etc.), and are responsible, answerable, accountable, to the House of Commons or the assembly for their particular departments. There are also, sometimes, ministers without portfolio, who are not in charge of any department; or ministers of state, who may be in charge of

a particular section of a department, or of a "ministry," which is not a full-fledged department (for example, the Ministry of State for Science and Technology). The ministers collectively are answerable to the House of Commons or the assembly for the policy and conduct of the cabinet as a whole. If a minister does not agree with a particular policy or action of the government, he must either accept the policy or action, and, if necessary, defend it, or resign from the cabinet. This is known as "the collective responsibility of the cabinet," and is a fundamental principle of our form of government.

The cabinet is responsible for most legislation. It has the sole power to prepare and introduce tax legislation and legislation involving the expenditure of public money. These "money bills" must be introduced first in the House of Commons, and the House cannot *introduce* them, or *increase* either the tax or the expenditure, without a royal recommendation in the form of a message from the Governor General. Money bills cannot be introduced in the Senate, and the Senate cannot increase either a tax or an expenditure. However, any member of either house can move a motion to decrease a tax or an expenditure, and the house concerned can pass it, though this hardly ever happens.

# A federal state

A federal state is one that brings together a number of different political communities with a common government for common purposes and separate "state" or "provincial" or "cantonal" governments for the particular purposes of each community. The United States of America, Canada, Australia and Switzerland are all federal states. Federalism combines unity with diversity. It provides, as Sir John A. Macdonald, Canada's first prime minister, said, "A general government and legislature for general purposes with local governments and legislatures for local purposes."

The word "confederation" is sometimes used to mean a league of independent states, like the United States from 1776 to 1789. But for our Fathers of Confederation, the term emphatically did not mean that. French-speaking and English-speaking alike, they said plainly and repeatedly that they were founding "a new nation," "a new political nationality," "a powerful nation, to take its place among the nations of the world," "a single great power."

They were very insistent on maintaining the identity, the special culture, and the special institutions of each of the federating provinces or colonies. Predominantly French-speaking and Roman Catholic, Canada East (Quebec) wanted to be free of the horrendous threat that an English-speaking and mainly Protestant majority would erode or destroy its rights to its language, its French-type civil law, and its distinctively religious system of education. Overwhelmingly English-speaking and mainly Protestant, Canada West (Ontario) was still smarting from the fact that Canada East members in the legislature of the united Province of Canada had thrust upon it a system of Roman Catholic separate schools that most of the Canada West members had voted against, and wanted to be free of what some of its leaders called "French domination." For their part,

Nova Scotia and New Brunswick had no intention of being annexed or absorbed by the Province of Canada, of which they knew almost nothing and whose political instability and incessant "French-English" strife they distrusted.

On the other hand, all felt the necessity of union for protection against the threat of American invasion or American economic strangulation (for six months of the year, the Province of Canada was completely cut off from Britain, its main source of manufactured goods, except through American ports), and for economic growth and development. So the Fathers of Confederation were equally insistent on a real federation, a real "Union," as they repeatedly called it, not a league of states or of sovereign or semi-independent provinces.

The Fathers of Confederation were faced with the task of bringing together small, sparsely-populated communities scattered over immense distances. Not only were these communities separated by natural barriers that might well have seemed insurmountable, but they were also divided by deep divergences of economic interest, language, religion, law and education. Communications were poor and mainly with the world outside British North America.

To all these problems, they could find only one answer: federalism.

The provinces dared not remain separate, nor could they merge. They could, and did, form a federation, with a strong central government and Parliament, but also with an ample measure of autonomy and self-government for each of the federating communities.

## Our Constitution

The *British North America (BNA) Act* was the instrument that brought the federation, the new nation, into existence. It was an act of the British Parliament. But, except for two small points, it is simply the statutory form of resolutions drawn up by delegates from what is now Canada. Not a single representative of the British government was present at the conferences that drew up those resolutions, or took the remotest part in them.

The two small points on which our Constitution is not entirely homemade are, first, the legal title of our country, "Dominion," and, second, the provisions for breaking a deadlock between the Senate and the House of Commons.

The Fathers of Confederation wanted to call the country "the Kingdom of Canada." The British government was afraid of offending the Americans so it insisted on the Fathers finding another title. They did, from Psalm 72: "He shall have dominion also from sea to sea, and from the river unto the ends of the earth." It seemed to fit the new nation like the paper on the wall. They explained to Queen Victoria that it was "intended to give dignity" to the Union, and "as a tribute to the monarchical principle, which they earnestly desire to uphold."

To meet a deadlock between the Senate and the House of Commons, the Fathers had made no provision. The British government insisted that they produce something. So they did: sections 26–28 of the act, which have never been used.

That the federation resolutions were brought into effect by an act of the British Parliament was the Fathers' deliberate choice. They could have chosen to follow the American example, and done so without violent revolution.

Sir John A. Macdonald, in the Confederation debates, made that perfectly clear. He said: "If the people of British North America after full deliberation had stated that it was for their interest, for the advantage of British North America to sever the tie (with Britain) I am sure that Her Majesty and the Imperial Parliament would have sanctioned that severance." But: "Not a single suggestion was made, that it could . . . be for the interest of the colonies . . . that there should be a severance of our connection . . . There was a unanimous feeling of willingness to run all the hazards of war (with the United States) rather than lose the connection."

Hence, the only way to bring the federation into being was through a British act.

That act, the *British North America Act, 1867* (now renamed the *Constitution Act, 1867*) contained no provisions for its own amendment, except a limited power for the provinces to amend their own constitutions. All other amendments had to be made by a fresh act of the British Parliament.

At the end of the First World War, Canada signed the peace treaties as a distinct power, and became a founding member of the League of Nations and the International Labour Organization. In 1926, the Imperial Conference recognized Canada, Australia, New Zealand, South Africa, the Irish Free State and Newfoundland as "autonomous communities, in no way subordinate to the United Kingdom in any aspect of their domestic or external affairs." Canada had come of age.

This gave rise to a feeling that we should be able to amend our Constitution ourselves, without even the most formal intervention by the British Parliament. True, that Parliament always passed any amendment we asked for. But more and more Canadians felt this was not good enough. The whole process should take place here. The Constitution should be "patriated," brought home.

Attempts to bring this about began in 1927. Till 1981, they failed, not because of any British reluctance to make the change but because the federal and provincial governments could not agree on a generally acceptable method of amendment. Finally, after more than half a century of federal-provincial conferences and negotiations, the Senate and the House of Commons, with the approval of nine provincial governments, passed the necessary joint address asking for the final British act. This placed the whole process of amendment in Canada, and removed the last vestige of the British Parliament's power over our country.

The *Constitution Act, 1867*, remains the basic element of our written Constitution.

But the written Constitution, the strict law of the Constitution, even with the latest addition, the *Constitution Act, 1982*, is only part of our whole working Constitution, the set of arrangements by which we govern ourselves. It is the skeleton; it is not the whole body.

Responsible government, the national cabinet, the prime minister, the bureaucracy, political parties, federal-provincial conferences; all these are basic features of our system of government. But the written Constitution does not contain one word about any of them (except for that phrase in the preamble to the act of 1867 about "a Constitution similar in principle to that of the United Kingdom"). The flesh, the muscles, the sinews, the nerves of our Constitution have been added by legislation (for example, the *Elections Acts*, federal and provincial, the *House of Commons Act*, the *Legislative Assembly Acts*, the *Public Service Acts*), by custom (the prime minister, the cabinet, responsible government, political parties, federal-provincial conferences), by judgments of the courts (interpreting what the act of 1867 and its amendments mean), by agreements between the national and provincial governments.

If the written Constitution is silent on all these things, which are the living reality of our Constitution, what does it say? If it leaves out so much, what does it put in?

Before we answer that question, it is necessary to understand that our written Constitution, unlike the American, is not a single document. It is a collection of 24 documents: 13 acts of the British Parliament, seven of the Canadian, and four British orders-in-council.

The core of the collection is still the act of 1867. This, with the amendments added to it down to the end of 1981, did 12 things.

First, it created the federation, the provinces, the territories, the national Parliament, the provincial legislatures and some provincial cabinets.

Second, it gave the national Parliament power to create new provinces out of the territories, and also the power to change provincial boundaries with the consent of the provinces concerned.

Third, it set out the power of Parliament and of the provincial legislatures.

Fourth, it vested the formal executive power in the Queen, and created the Queen's Privy Council for Canada (the legal basis for the federal cabinet).

Fifth, it gave Parliament power to set up a Supreme Court of Canada (which it did, in 1875).

Sixth, it guaranteed certain limited rights equally to the English and French languages in the federal Parliament and courts and in the legislatures and courts of Quebec and Manitoba.

Seventh, it guaranteed separate schools for the Protestant and Roman Catholic minorities in Quebec and Ontario. It also guaranteed separate schools in any other province where they existed by law in 1867, or were set up by any provincial law after 1867. There were special provisions for Manitoba (created in 1870), which proved ineffective; more limited guarantees for Alberta and Saskatchewan (created in 1905); and for Newfoundland (which came into Confederation in 1949) a guarantee of separate schools for a variety of Christian denominations.

Eighth, it guaranteed Quebec's distinctive civil law.

Ninth, it gave Parliament power to assume the jurisdiction over property and civil rights, or any part of such jurisdiction, in other provinces, provided the provincial legislatures consented. This power has never been used.

Tenth, it prohibited provincial tariffs.

Eleventh, it gave the provincial legislatures the power to amend the provincial constitutions, except as regards the office of lieutenant-governor.

Twelfth, it gave the national government (the Governor General-in-Council, that is, the federal cabinet) certain controls over the provinces: appointment, instruction and dismissal of lieutenant-governors (two have been dismissed); disallowance of provincial acts within one year after their passing (112 have been disallowed – the last in 1943 – from every province except Prince Edward Island and Newfoundland); power of lieutenant-governors to send provincial bills to Ottawa, unassented to (in which case they do not go into effect unless the central executive assents within one year; of 70 such bills, the last in 1961, from every province but Newfoundland, only 14 have gone into effect).

These are the main things the written Constitution did as it stood at the end of 1981. They provided the legal framework within which we could, and did, adapt, adjust, manoeuvre, innovate, compromise, arrange, by what Prime Minister Sir Robert Borden called "the exercise of the commonplace quality of common sense."

The final British act of 1982, the *Canada Act*, as we have seen, provided for the termination of the British Parliament's power over Canada and for the "patriation" of our Constitution. Under the terms of the *Canada Act*, the *Constitution Act, 1982* was proclaimed in Canada and "patriation" was achieved.

Under the *Constitution Act, 1982*, the *British North America Act* and its various amendments (1871, 1886, 1907, 1915, 1930, 1940, 1960, 1964, 1965, 1974, 1975) became the Constitution Acts, 1867-1975.

There is a widespread impression that the *Constitution Act, 1982*, gave us a "new Constitution." It did not. In fact, that Act itself says that "the Constitution of Canada includes" 13 other Acts of the Parliament of the United Kingdom, part of another United Kingdom Act, eight Acts of the Parliament of Canada, and four United Kingdom Orders-in-council (giving Canada the original Northwest Territories and the Arctic Islands, and admitting British Columbia and Prince Edward Island to Confederation). Thirteen of the Acts get new names; two, the old *British North America Act, 1867* (now the *Constitution Act, 1867*) and the *Manitoba Act, 1870*, suffer a few minor deletions. The part of the United Kingdom Statute of Westminster that is included loses one section.

The rest, apart from changes of name, are untouched. What we have now is not a new Constitution but the old one with a very few small deletions and four immensely important additions; in an old English slang phrase, the old Constitution with knobs on.

What are the big changes it made in our Constitution?

First, it established four legal formulas or processes for amending the Constitution. Till 1982, there had never been any legal amending formula (except for a narrowly limited power given to the national Parliament in 1949, a power now superseded).

The first formula covers amendments dealing with the office of the Queen, the Governor General, the lieutenant-governors, the right of a province to at least as many seats in the House of Commons as it has in the Senate, the use of the English and French languages (except amendments applying only to a single province), the composition of the Supreme Court of Canada and amendments to the amending formulas themselves.

Amendments of these kinds must be passed by the Senate and the House of Commons (or by the Commons alone, if the Senate has not approved the proposal within 180 days after the Commons has done so), and by the legislature of every province. This gives every single province a veto.

The second formula covers amendments taking away any rights, powers or privileges of provincial governments or legislatures; dealing with the proportionate representation of the provinces in the House of Commons; the powers of the Senate and the method of selecting senators; the number of senators for each province, and their residence qualifications; the constitutional position of the Supreme Court of Canada (except its composition, which comes under the first formula); the extension of existing provinces into the territories; the creation of new provinces; generally, the Canadian Charter of Rights and Freedoms (which is dealt with later).

Such amendments must be passed by the Senate and the House of Commons (or, again, the Commons alone if the Senate delays more than 180 days), and by the legislatures of two-thirds of the provinces with at least half the total population of all the provinces (that is, the total population of Canada excluding the territories). This means that any four provinces taken together (for example, the four Atlantic provinces, or the four Western) could veto any such amendments. So could Ontario and Quebec taken together. The seven provinces needed to pass any amendment would have to include either Quebec or Ontario.

Any province can, by resolution of its legislature, opt out of any amendment passed under this formula that takes away any of its powers, rights or privileges; and if the amendment it opts out of transfers power over education or other cultural matters to the national Parliament, Parliament must pay the province "reasonable compensation."

The third formula covers amendments dealing with matters that apply only to one province, or to several but not all provinces. Such amendments must be passed by the Senate and the House of Commons (or the Commons alone, if the Senate delays more than 180 days), and by the legislature or legislatures of the particular province or provinces concerned. Such amendments include any changes in provincial boundaries, or changes relating to the use of the English or French language in a particular province, or provinces.

The fourth formula covers changes in the executive government of Canada or in the Senate and House of Commons (other than those covered by the first two formulas). These amendments can be made by an ordinary act of the Parliament of Canada.

The second big change made by the *Constitution Act, 1982*, is that the first three amending formulas "entrench" certain parts of the written Constitution; that is, place them beyond the power of Parliament or any provincial legislature to touch.

For example, the monarchy cannot now be touched except with the unanimous consent of the provinces. Nor can the governor generalship, nor the lieutenant-governorships, nor the composition of the Supreme Court of Canada (nine justices, of whom three must be from Quebec; all of them appointed by the federal government and removable only by address of the Senate and the House of Commons), nor the right of a province to at least as many members of the Commons as it has senators, nor the amending formulas themselves. On all of these, any single province can impose a veto. Matters coming under the second formula can be changed only with the consent of seven provinces with at least half the population of the 10.

The guarantees for the English and French languages in New Brunswick, Quebec and Manitoba cannot be changed except with the consent both of the provincial legislatures concerned and the Senate and House of Commons (or the Commons alone, under the 180-day provision). The guarantees for denominational schools in Newfoundland cannot be changed except with the consent of the legislature of Newfoundland; nor can the Labrador boundary.

The amending process under the first three formulas can be initiated by the Senate, or the House of Commons, or a provincial legislature. The ordinary act of Parliament required by the fourth formula can, of course, be initiated by either house.

Third, the new *Constitution Act* sets out a Charter of Rights and Freedoms that neither Parliament nor any provincial legislature acting alone can change. Any such changes come under the second formula (or, where they apply only to one or more, but not all, provinces, the third formula).

The rights and freedoms guaranteed are:

1 Democratic rights (for example, the right of every citizen to vote for the House of Commons and the provincial legislative assembly, and the right to elections at least every five years, though in time of real or apprehended war, invasion or insurrection, the life of a federal or provincial house may be prolonged by a two-thirds vote of the Commons or legislative assembly).

2 Fundamental freedoms (conscience, thought, speech, peaceful assembly, association).

3 Mobility rights (to enter, remain in, or leave Canada, and to move into, and earn a living in, any province subject to certain limitations, notably to provide for "affirmative action" programs for the socially or economically disadvantaged).

4 Legal rights (a long list, including such things as the right to a fair, reasonably prompt, public trial by an impartial court).

5 Equality rights (no discrimination on grounds of race, national or ethnic origin, religion, sex, age or mental or physical disability; again, with provision for "affirmative action" programs).

6 Official language rights.

7 Minority language education rights.

# CANADIAN CHARTER OF RIGHTS AND FREEDOMS

### Guarantee of Rights and Freedoms

### Fundamental Freedoms

### Democratic Rights

### Mobility Rights

### Legal Rights

### Equality Rights

### Official Languages of Canada

### Minority Language Educational Rights

### Enforcement

### General

### Application of Charter

### Citation

All these rights are "subject to such reasonable limits as can be demonstrably justified in a free and democratic society." What these limits might be, the courts will decide.

The equality rights came into force on April 15, 1985, three years after the time of patriation. (This gave time for revision of the multitude of laws, federal and provincial, which may have required amendment or repeal.)

The fundamental, legal and equality rights in the Charter are subject to a "notwithstanding" clause. This allows Parliament, or a provincial legislature, to pass a law violating any of these rights (except the equality right that prohibits discrimination based on sex) simply by inserting in such law a declaration that it shall operate notwithstanding the fact that it is contrary to this or that provision of the Charter. Any such law can last only five years. But it can be re-enacted for further periods of five years. Any such legislation must apply equally to men and women.

The official language rights make English and French the official languages of Canada for all the institutions of the government and Parliament of Canada and of the New Brunswick government and legislature. Everyone has the right to use either language in Parliament and the New Brunswick legislature. The acts of Parliament and the New Brunswick legislature, and the records and journals of both bodies must be in both languages. Either language may be used in any pleading or process in the federal and New Brunswick courts. Any member of the public has the right to communicate with the government and Parliament of Canada, and the government and legislature of New Brunswick, and to receive available services, in either language where there is "a sufficient demand" for the use of English or French or where the nature of the office makes it reasonable. The Charter confirms the existing constitutional guarantees for English and French in the legislatures and courts of Quebec and Manitoba.

The minority language education rights are twofold.

1 In every province, citizens of Canada with any child who has received or is receiving primary or secondary schooling in English or French have the right to have all their children receive their schooling in the same language, in minority language educational facilities provided out of public funds, where the number of children "so warrants." Also, citizens who have received their own primary schooling in Canada in English or French, and reside in a province where that language is the language of the English or French linguistic minority, have the right to have their children get their primary and secondary schooling in the language concerned, where numbers so warrant.

2 In every province except Quebec, citizens whose mother tongue is that of the English or French linguistic minority have the right to have their children get their primary and secondary schooling in the language concerned, where numbers so warrant. This right will be extended to Quebec only if the legislature or government of Quebec consents.

Anyone whose rights and freedoms under the Charter have been infringed or denied can apply to a court of competent jurisdiction "to obtain such remedy as the court considers appropriate and just." If the court decides that any evidence was obtained in a manner that infringed or denied rights and freedoms guaranteed under the Charter, it must exclude such evidence "if it is established that . . . the admission of it would bring the administration of justice into disrepute."

The Charter (except for the language provisions for New Brunswick, which can be amended by joint action of Parliament and the provincial legislature) can be amended only with the consent of seven provinces with at least half the total population of the 10.

The Charter is careful to say that the guarantees it gives to certain rights and freedoms are "not to be construed as denying the existence of any other rights or freedoms that exist in Canada." It declares also that nothing in it "abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools." These are, and remain, entrenched.

Before the Charter was added, our written Constitution entrenched certain rights of the English and French languages, the Quebec civil law, certain rights to denominational schools and free trade among the provinces. Apart from these, Parliament and the provincial legislatures could pass any laws they saw fit, provided they did not jump the fence into each others' gardens. As long as Parliament did not try to legislate on subjects that belonged to provincial legislatures, and provincial legislatures did not try to legislate on subjects that belonged to Parliament, Parliament and the legislatures were "sovereign" within their respective fields. There were no legal limits on what they could do (though of course provincial laws could be disallowed by the federal cabinet within one year). The only ground on which the courts could declare either a federal or a provincial law unconstitutional (that is, null and void) was that it intruded into the jurisdictional territory of the other order of government (or, of course, had violated one of the four entrenched rights).

The Charter has radically changed the situation. Parliament and the legislatures will, of course, still not be allowed to jump the fence into each others' gardens. But both federal and provincial laws can now be challenged, and thrown out by the courts, on the grounds that they violate the Charter. This is something the Americans, with their Bill of Rights entrenched in their Constitution, have been familiar with for almost 200 years. For us, it is almost completely new, indeed revolutionary.

Plainly, this enormously widens the jurisdiction of the courts. Before the Charter, Parliament and the provincial legislatures, "within the limits of subject and area" prescribed by the *Constitution Act, 1867* enjoyed "authority as plenary and as ample as the Imperial Parliament in the plenitude of its power possessed and could bestow." In other words, within those limits, they could do anything. They were sovereign.

The Charter ends that. It imposes new limits. Just how restrictive they will turn out to be depends on the courts.

Section 1 of the Charter itself provides some leeway for Parliament and the legislatures. It says that the rights the Charter guarantees are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." The courts will decide the

meaning of "reasonable" and "demonstrably justified" and "a free and democratic society." Their decisions may leave Parliament and the legislatures with most of the powers they had before the Charter came into effect; or they may narrowly restrict many of those powers. It may take some years to find out.

The Charter also contains a provision that Parliament, or a provincial legislature, can override some important parts of the Charter by inserting in an act that would otherwise violate those provisions, a plain declaration that the act shall operate "notwithstanding" the Charter. Such an act is limited to five years, but can be extended for renewed periods of five years. This could allow a partial restoration of the sovereignty of Parliament and the provincial legislatures.

The fourth big change made by the *Constitution Act, 1982*, gives the provinces wide powers over their natural resources. Each province will now be able to control the export, to any other part of Canada, of the primary production from its mines, oil wells, gas wells, forests and electric power plants, provided it does not discriminate against other parts of Canada in prices or supplies. But the national Parliament will still be able to legislate on these matters, and if provincial and federal laws conflict, the federal will prevail. The provinces will also be able to levy indirect taxes on their mines, oil wells, gas wells, forests and electric power plants and primary production from these sources. But such taxes must be the same for products exported to other parts of Canada and products not so exported.

All these changes, especially the amending formulas and the Charter, are immensely important. But they leave the main structure of government, and almost the whole of the division of powers between the national Parliament and the provincial legislatures, just what they were before.

Incidentally, they leave the provincial legislatures their power to confiscate the property of any individual or corporation and give it to someone else, with not a penny of compensation to the original owner. In two cases, Ontario and Nova Scotia did just that, and the Ontario Court of Appeal ruled: "The prohibition 'Thou shalt not steal' has no legal force

upon the sovereign body. And there would be no necessity for compensation to be given." The Charter does not change this. The only security against it is the federal power of disallowance (exercised in the Nova Scotia case) and the fact that today very few legislatures would dare to try it, save in most extraordinary circumstances: the members who voted for it would be too much afraid of being defeated in the next election.

The *Constitution Act, 1982* makes other changes, and one of these looks very significant indeed, although how much it will really mean remains to be seen. The *BNA Act, 1867*, gave the national Parliament exclusive authority over "Indians, and lands reserved for the Indians," and the courts have ruled that "Indians" includes the Inuit. Till 1982, that was all the Constitution said about the native peoples.

The Constitution now has three provisions on the subject.

First, it says that the Charter's guarantee of certain rights and freedoms "shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada," including rights or freedoms recognized by the Royal Proclamation of 1763, and any rights or freedoms acquired by way of land claims settlement.

Second, "The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed," and the aboriginal peoples are defined as including the Indian, Inuit and Métis peoples.

Third, in 1983, the amending formula was used for the first time to add to the aboriginal and treaty rights of Canada's native peoples rights or freedoms that already existed by way of land claims agreements or that might be so acquired, and to guarantee all the rights equally to men and women. The amendment also provided that there would be no amendments to the constitutional provisions relating to Indians and Indian reserves, or the aboriginal rights and freedoms guaranteed by the Charter of Rights and Freedoms, without discussions at a conference of First Ministers with representatives of the native peoples. The amendment came into force on June 21, 1984.

The *Constitution Act, 1982*, also contains a section on equalization and regional disparities. This proclaims: (1) that the national government and Parliament and the provincial governments and legislatures "are committed to promoting equal opportunities for the well-being of Canadians, furthering economic development to reduce disparities in opportunities, and providing essential public services of reasonable quality to all Canadians;" and (2) that the government and Parliament of Canada "are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation."

The 1982 act also provides that the guarantees for the English and French languages do not abrogate or derogate from any legal or customary right or privilege enjoyed by any other language, and that the Charter shall be interpreted "in a manner consistent with the preservation and enhancement of the multicultural heritage of Canada."

Finally, the act provides for English and French versions of the whole written Constitution, from the act of 1867 to the act of 1982, and makes both versions equally authoritative.

# Powers of the national and provincial governments

The national Parliament has power "to make laws for the peace, order and good government of Canada," except for "subjects assigned exclusively to the legislatures of the provinces." The provincial legislatures have power over direct taxation in the province for provincial purposes, natural resources, prisons (except penitentiaries), charitable institutions, hospitals (except marine hospitals), municipal institutions, licenses for provincial and municipal revenue purposes, local works and undertakings (with certain exceptions), incorporation of provincial companies, solemnization of marriage, property and civil rights in the province, the creation of courts and the administration of justice, fines and penalties for breaking provincial laws, matters of a merely local or private nature in the province, and education (subject to certain rights of the Protestant and Roman Catholic minorities in any province, and of particular denominations in Newfoundland).

Subject to the limitations imposed by the *Constitution Act, 1982*, the provinces can amend their own constitutions by an ordinary act of the legislature. They cannot touch the office of lieutenant-governor; they cannot restrict the franchise or qualifications for members of the assemblies or prolong the lives of their legislatures except as provided for in the Charter of Rights and Freedoms.

Of course the power to amend provincial constitutions is restricted to changes in the internal machinery of the provincial government. Provincial legislatures are limited to those powers explicitly given to them by the written Constitution. So no provincial legislature can take over powers belonging to the Parliament of Canada. Nor could any provincial legislature pass an act taking the province out of Canada. No such power is to be found in the written Constitution, so no such power exists.

Similarly, of course, Parliament cannot take over any power of a provincial legislature, nor could Parliament expel any province from the federation.

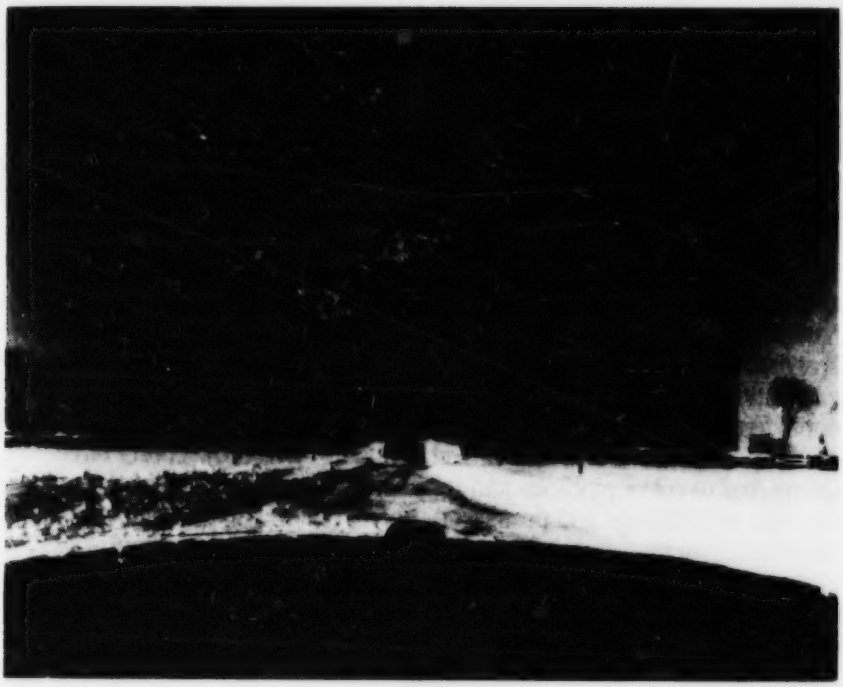
Parliament and the provincial legislatures both have power over agriculture, immigration and over certain aspects of natural resources; but if their laws conflict, the national law prevails.

Parliament and the provincial legislatures also have power over old age, disability and survivors' pensions; but if their laws conflict, the provincial power prevails.

By virtue of the *Constitution Act, 1867*, everything not mentioned as belonging to the provincial legislatures comes under the national Parliament.

This looks like an immensely wide power. It is not, in fact, as wide as it looks, because the courts have interpreted the provincial powers, especially "property and civil rights," as covering a very wide field. As a result, all labour legislation (maximum hours, minimum wages, safety, workmen's compensation, industrial relations) comes under provincial law, except for certain industries such as banking, broadcasting, air navigation, atomic energy, shipping, interprovincial and international railways, telephones, telegraphs, pipelines, grain elevators, enterprises owned by the national government, and works declared by Parliament to be for the general advantage of Canada or of two or more of the provinces. Social security (except for Unemployment Insurance, which is purely national, and the shared power over pensions) comes under the provinces. However, the national Parliament has, in effect, established nation-wide systems of hospital insurance and medical care by making grants to the provinces (or, for Quebec, yielding some of its field of taxes) on condition that their plans reach certain standards.

The courts' interpretation of provincial and national powers has put broadcasting and air navigation under Parliament's general power to make laws for the "peace, order and good government of Canada," but otherwise has reduced it to not much more than an emergency power, for wartime, or grave national crises like nation-wide famine or epidemics, or massive inflation, though some recent cases go beyond this.



However, the Fathers of Confederation, not content with giving Parliament what they thought an ample general power, added, "for greater certainty," a long list of examples of exclusive national powers: taxation, direct and indirect; regulation of trade and commerce (the courts have interpreted this to mean interprovincial and international trade and commerce); "the public debt and property" (this enables Parliament to make grants to individuals – such as Family Allowances – or to provinces: hospital insurance and medicare, higher education, public assistance to the needy, and equalization grants to bring the standards of health, education and general welfare in the poorer provinces up to an average national standard); the Post Office; the census and statistics; defence; beacons, buoys, lighthouses and Sable Island;* navigation and shipping; quarantine; marine hospitals; the fisheries; interprovincial and international ferries, shipping, railways, telegraphs, and other such international or interprovincial "works and undertakings" – which the courts have interpreted to cover pipelines and telephones; money and banking; interest; bills of exchange and promissory notes; bankruptcy; weights and measures; patents; copyrights; Indians and Indian lands (the courts have interpreted this to cover Inuit as well); naturalization and aliens; the criminal law and procedure in criminal cases; the general law of marriage and divorce; local works declared by Parliament to be "for the general advantage of Canada or of two or more of the provinces" (this has been used many times, notably to bring atomic energy and the grain trade under exclusive national jurisdiction). A 1940 constitutional amendment gave Parliament exclusive power over Unemployment Insurance and a specific section of the act of 1867 gives it power to establish courts "for the better administration of the laws of Canada." This has enabled Parliament to set up the Supreme Court of Canada and the Federal Court.

*The Fathers of Confederation evidently felt that Sable Island, "the graveyard of the Atlantic," was such a menace to shipping that it must be under the absolute control of the national government, just like lighthouses. So they placed it under the exclusive legislative jurisdiction of the national Parliament (by section 91, head 9, of the act of 1867). They also (by the third schedule of that act) transferred the actual ownership from the Province of Nova Scotia to the Dominion of Canada, just as they did with the Nova Scotia lighthouses.

As already noted, the national Parliament can amend the Constitution in relation to the executive government of Canada and the Senate and the House of Commons, except that it cannot touch the office of the Queen or the Governor General, nor those aspects of the Senate and the Supreme Court of Canada entrenched by the amending formulas.

Though Parliament cannot transfer any of its powers to a provincial legislature, nor a provincial legislature any of its powers to Parliament, Parliament can delegate the administration of a federal act to provincial agencies (as it has done with the regulation of interprovincial and international highway traffic); and a provincial legislature can delegate the administration of a provincial act to a federal agency. This ''administrative delegation'' is an important aspect of the flexibility of our Constitution.

# Canadian government and American: a contrast

Canada and the United States are both democracies. They are also both federal states. But there are important differences in the way Canadians and Americans govern themselves.

One basic difference is that the United States is a country of one basic language and culture. It has just one official language, for its federal government and for every state. Canada is a country of two basic languages. The Fathers of Confederation deliberately chose to make it so.

Our official recognition of bilingualism is limited, but expanding. For example, it was at the specific request of the New Brunswick government that the adoption of French and English as the official languages of that province was enshrined in the Constitution.

Ontario, which has the largest number of French-speaking people outside Quebec, has provided French schools and an increasing range of services in French for Franco-Ontarians. Several other provinces have taken steps in the same direction.

But under the Constitution, every province except Quebec, New Brunswick and Manitoba is absolutely free to have as many official languages as it pleases, and they need not include either English or French. For example, Nova Scotia could make Gaelic its sole official language, or one of two, three or a dozen official languages in that province. Alberta could make Ukrainian its sole official language, or Ukrainian, Polish and classical Greek its three official languages. Quebec, New Brunswick and Manitoba also are free to have as many official languages as they please, but they must include English and French.

A second basic difference between our Constitution and the American is, of course, that we are a constitutional monarchy and they are a republic. That looks like only a formal difference. It is very much more, for we have parliamentary-cabinet government, while the Americans have presidential-congressional.

What does that mean? What difference does it make?

First, in the United States the head of state and the head of the government are one and the same. The president is both at once. Here, the Queen, ordinarily represented by the Governor General, is the head of state, and the prime minister is the head of the government. Does that make any real difference? Yes: in Canada, the head of state can, in exceptional circumstances, protect Parliament and the people against a prime minister and ministers who may forget that "minister" means "servant," and may try to make themselves masters. For example, the head of state could refuse to let a cabinet dissolve a newly-elected House of Commons before it could even meet, or could refuse to let ministers bludgeon the people into submission by a continuous series of general elections. The American head of state cannot restrain the American head of government because they are the same person.

For another thing, presidential-congressional government is based on a separation of powers. The American president cannot be a member of either house of Congress. Neither can any of the members of his cabinet. Neither he nor any member of his cabinet can appear in Congress to introduce a bill, or defend it, or answer questions, or rebut attacks on policies. No member of either house can be president or a member of the cabinet.

Parliament-cabinet government is based on concentration of powers. The prime minister, and every other minister, must, by custom (though not by law) be a member of one house or the other, or get a seat in one house or the other within a short time of appointment. All government bills must be introduced by a minister or someone speaking on his or her behalf, and ministers must appear in Parliament to defend government bills, answer daily questions on government actions or policies, and rebut attacks on such actions or policies.

In the United States, the president and every member of both houses is elected for a fixed term: the president for four years, the senators for six, the members of the House of Representatives for two. The only way to get rid of a president before the end of his four-year term is to impeach him, which is very hard to do, and has never been done and only twice even attempted.

As the president, the senators and the representatives are elected for different periods, it can happen, and often does, that the president belongs to one party while the opposing party has a majority in either the Senate or the House of Representatives or both. So for years on end, the president may find his legislation and his policies blocked by an adverse majority in one or both houses. He cannot appeal to the people by dissolving either house, or both: he has no such power, and the two houses are there for their fixed terms, come what may, till the constitutionally fixed hour strikes.

And even when the elections for the presidency, the House of Representatives and one-third of the Senate take place on the same day, as they do every four years, the result may be a Republican president, a Democratic Senate and a Republican House of Representatives or various other mixtures.

A president, accordingly, may have a coherent program to present to Congress. He may get senators and representatives to introduce the bills he wants passed. But each house can add to each of his bills, or take things out of them, or reject them outright, and what emerges from the tussle may bear little or no resemblance to what the president wanted. The majority in either house may have a coherent program on this or that subject; but the other house can add to it, or take things out of it, or throw the whole thing out; and again, what (if anything) emerges may bear little or no resemblance to the original. And even if the two houses agree on something, the president can, and often does, veto the bill, and his veto can be overridden only by a two-thirds majority in both houses.

So when an election comes, the president, the senator, the representative, reproached with not having carried out his promises can always say: "Don't blame me! I sent the bill to Congress, and the Senate (or the representatives, or both) threw it out, or mangled it beyond recognition;"

"I introduced the bill I'd promised, in the Senate, but the House of Representatives threw it out or reduced it to shreds and tatters (or the president vetoed it);" "I introduced my bill in the House of Representatives, but the Senate rejected it or made mincemeat of it (or the president vetoed it). Don't blame me!"

So it ends up that nobody – not the president, not the senators, not the representatives – can be held really responsible for anything done or not done. Everybody concerned can honestly and legitimately say it was not his fault.

True, a dissatisfied voter can vote against a president, a representative or a senator. But no matter what the voters do, the situation remains essentially the same. The president is there for four years. No matter how often either house votes against his measures, there he stays. If, half-way through the president's four-year term, the elections for the House and Senate go against him, he still stays in office for the remaining two years. And he cannot get rid of an adverse House or Senate, by ordering a new election. The senators are there for six years, the representatives for two years.

Our Canadian system is very different. Nobody is elected for a fixed term. All important legislation is introduced by the government, and all money bills *must* be introduced by the government and neither house can raise the amounts of money involved. As long as the government can keep the support of a majority in the House of Commons, it can pass any legislation it sees fit. If it loses its majority support in the House of Commons, then it must either make way for a government of the opposite party or call a fresh election. If it simply makes way for a government of the opposite party, then that government, as long as it holds its majority in the House of Commons, can pass any legislation it sees fit; and if it loses that majority, then it, in its turn, must either make way for a new government or call a fresh election. In the United States, president and Congress can be locked in fruitless combat for years on end. In Canada, the government and the House of Commons cannot be at odds for more than a few weeks at a time. If they differ on any matter of importance, then, promptly, there is either a new government or a new House of Commons.

Presidential-congressional government is neither responsible nor responsive. If the electors, half-way through a president's four years, vote against his policies, he not only can, but must, remain in office (with enormous powers) until his term expires. The adverse majority in one or both houses can block many things he may want to do. But it cannot put him out. He can veto bills passed by both houses. But he cannot appeal to the people by calling an election to give him a Congress that will support him. A president can't get rid of an adverse Congress, and Congress can't get rid of an adverse president.

Parliamentary-cabinet government, by contrast, is both responsible and responsive. If the House of Commons votes want of confidence in a cabinet, that cabinet must step down and make way for a new government formed by the official opposition party, forthwith, or call an election right away so the people can decide which party will govern.

An American president can be blocked by one house or both for years on end. A Canadian prime minister, blocked by the House of Commons, must either make way for a new prime minister, or allow the people to elect a new House of Commons that will settle the matter, one way or another, within two or three months. That is real responsibility.

Furthermore, in Canada, if a great new issue of public policy arises, on which the cabinet may be out of tune with an overwhelming public opinion, the Opposition in the House can obstruct and filibuster and thereby force a cabinet even with a substantial majority to let the people decide the issue in an election. The Conservatives, in opposition, did precisely this on the issue of reciprocity in 1911, and won the ensuing election. That is real responsiveness.

A third basic difference between our system and the Americans' is that custom, usage, practice, and "convention," play a far larger part in our Constitution than in theirs. For example, the president of the United States is right there in the written Constitution; his qualifications, how he is elected, how he can be removed, all the essential powers of his office, in black and white, unchangeable except by formal constitutional amendment.

The Canadian prime minister never appeared in the written Constitution till 1982. The *Constitution Act* of that year empowered him to call a Constitutional Conference consisting of himself and the provincial premiers and (for limited purposes) elected representatives of the Yukon and the Northwest Territories within one year, and another, consisting of himself and the premiers within 15 years. Our written Constitution still contains not one syllable on his qualifications, how he is chosen or removed, or (except for the calling of the Constitutional Conferences) his powers. Nor is there anything on any of these matters in any Act of Parliament, except for provision of a salary for "the person holding the recognized position of First Minister." Everything else is a matter of established usage, of "convention." There is nothing in any law requiring the prime minister or any other minister to have a seat in Parliament; there is just a custom that he or she must have a seat, or get one within a reasonable time. There is nothing in any law to say that a government that loses its majority in the House of Commons on a matter of confidence must either resign (making way for a different government in the same House) or ask for a fresh general election.

A fourth basic difference between the American and Canadian systems is in the type of federalism they embody. The American system was originally highly decentralized. The federal Congress was given a short list of specific powers; everything not mentioned in that list belonged to the states "or to the people" (that is, was not within the power of either Congress or any state legislature). "States' rights" were fundamental. The Fathers of Confederation, gazing with horror at the American Civil War, decided that "states' rights" were precisely what had caused it, and acted accordingly.

"Here," said Sir John A. Macdonald, "we have adopted a different system. We have expressly declared that all subjects of general interest not distinctly and exclusively conferred upon the local governments and legislatures shall be conferred upon the general government and legislature. We have thus avoided that great source of weakness that has been the disruption of the United States. We hereby strengthen the central Parliament, and make the Confederation one people and one government, instead of five peoples and five governments, with merely a point of authority connecting us to a limited and insufficient extent."

The Fathers also, as we have seen, gave a long list of specific examples of exclusive national powers. They further provided that the members of the Senate, and all judges from county courts up (except judges of probate in Nova Scotia and New Brunswick) should be appointed by the national government, and that all lieutenant-governors of the provinces should be appointed, instructed and removable by the national government. They gave the national government and Parliament certain specific powers to protect the educational rights of the Protestant and Roman Catholic minorities of the Queen's subjects. They gave the national government power to disallow (wipe off the statute book) within one year of their passage, any acts of provincial legislatures.

In both the United States and Canada, however, the precise meaning of the written Constitution is settled by the courts. In the United States the courts have, in general, so interpreted the Constitution as to widen federal and narrow state powers. In Canada, the courts (notably the judicial committee of the British Privy Council, which, till 1949, was our highest court) have in general so interpreted the *Constitution Act, 1867*, as to narrow federal power and widen provincial power. The result is that the United States is, in actual fact, now a much more highly centralized federation than Canada, and Canada has become perhaps the most decentralized federation in the world. Nonetheless, the fact that under our Constitution the powers not specifically mentioned come under the national Parliament gives the central authority enough strength and leeway to meet many of the changed and changing conditions the years have brought.

# The rule of law and the courts

Responsible government and federalism are two cornerstones of our system of government. There is a third, without which neither of the first two would be safe: the rule of law.

What does the rule of law mean?

It means that everyone is subject to the law; that no one, no matter how important or powerful, is above the law: not the government; not the prime minister, or any other minister; not the Queen or the Governor General or any lieutenant-governor; not the most powerful bureaucrat; not the armed forces; not Parliament itself, or any provincial legislature. None of these has any powers except what are given to it by law; by the *BNA Act* or its amendments; by a law passed by Parliament or a provincial legislature; or by the Common Law of England, which we inherited, and which, though enormously modified, added to, and subtracted from by our own Parliament or provincial legislatures, remains the basis of our constitutional law, our criminal law, and the civil law (property and civil rights) of the whole country except Quebec.

If anyone were above the law, none of our liberties would be safe.

What keeps the various authorities from getting above the law, doing things the law forbids, exercising powers the law has not given them?

The courts. If they try anything of the sort, they will be brought up short by the courts.

But what's to prevent them from bending the courts to their will?

The great principle of the independence of the judiciary, which is even older than responsible government. Responsible government goes back only about 200 years. The independence of the judiciary goes back almost 300 years to the *English Act of Settlement of 1701*, which resulted from the English Revolution of 1688. That act provided that the judges, though appointed by the King (nowadays, of course, on the advice of a responsible cabinet) could be removed only if both houses or Parliament, by a formal address to the Crown, asked for their removal. If a judge gave a decision the government disliked, it could not touch him, unless both houses agreed. In the almost three centuries that have followed, only one judge in the United Kingdom has been so removed, and none since 1830.

The Constitution provides that almost all our courts shall be provincial, that is, created by the provincial legislatures. But it also provides that the judges of all these courts from county courts up (except courts of probate in Nova Scotia and New Brunswick) shall be appointed by the federal government. What is more, it provides that judges of the provincial "superior courts" (the Superior Court of Quebec, the supreme courts of the other provinces, and all the provincial courts of appeal) shall be removable only on address to the Governor General by both Houses of Parliament. The acts setting up the Supreme Court of Canada and the Federal Court have the same provision. No judge of any Canadian superior court has ever been so removed. All of them are perfectly safe in their positions, no matter how much the government may dislike any of their decisions. The independence of the judiciary is even more important in Canada than in Britain, because in Canada the Supreme Court interprets the written Constitution, and so defines the limits of federal and provincial powers.

With the inclusion of the Charter of Rights and Freedoms, the role of the courts will become even more important, since they will have the tasks of enforcing the rights and of making the freedoms effective.

Judges of the county courts can be removed only if one or more judges of the Supreme Court of Canada, or the Federal Court, or any provincial superior court, after inquiry, report that they have been guilty of misbehaviour, or have shown inability or incapacity to perform their duties.

The Supreme Court of Canada, established by an act of the national Parliament in 1875, consists of nine judges, three of whom must come from the Quebec Bar. The judges are appointed by the Governor General on the advice of the national cabinet, and hold office till they reach 75. The Supreme Court has the final decision not only on constitutional questions but also on defined classes of important cases of civil and criminal law. It deals also with appeals from decisions of the provincial courts of appeal.

# The institutions of our federal government

By the *Constitution Act, 1867*, "the executive government of and over Canada is declared to continue and be vested in the Queen." She acts, ordinarily through the Governor General, whom she appoints, on the advice of the Canadian prime minister. The Governor General normally holds office for five years, though the tenure may be extended for a year or so.

Parliament consists of the Queen, the Senate and the House of Commons.

## The Queen

The Queen is the formal head of the Canadian state. She is represented federally by the Governor General, provincially by the lieutenant-governors. Federal acts begin: "Her Majesty, by and with the advice and comment of the Senate and the House of Commons, enacts as follows;" provincial acts begin with similar words. Parliament (or the provincial legislature) meets only at the royal summons: no House of Parliament (or legislature) is equipped with a self-starter. No bill, federal or provincial, becomes law without the Royal Assent. The monarch has, on occasion, given the assent personally to federal acts, but ordinarily the assent is given by the Governor General or his deputy, and to provincial acts invariably by the lieutenant-governor.

The Governor General and the lieutenant-governors have the right to be consulted by their ministers, and the right to encourage or warn them. But they almost invariably must act on their ministers' advice, though there may be very rare occasions when they must, or may, act without advice or even against the advice of the ministers in office.

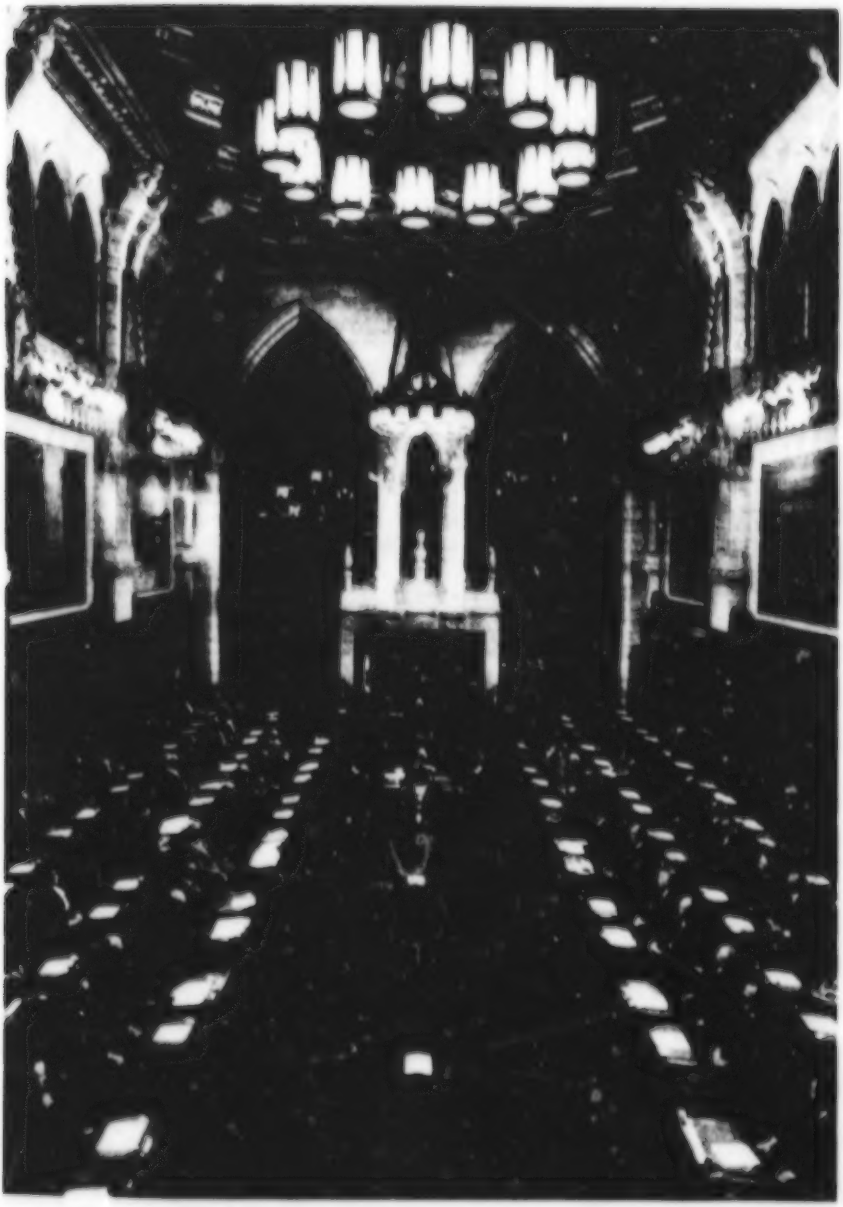
## The Senate

The Senate has 104 members: 24 from the Maritime provinces (10 from Nova Scotia, 10 from New Brunswick, four from Prince Edward Island); 24 from Quebec; 24 from Ontario; 24 from the Western provinces (six each from Manitoba, Saskatchewan, Alberta and British Columbia); six from Newfoundland; and one each from the Yukon Territory and the Northwest Territories. There is provision also for four or eight extra senators, one – or two – from the Maritime provinces, from Quebec, from Ontario and from the West; but this has never been used.

The senators are appointed by the prime minister. They hold office till age 75 unless they miss two consecutive sessions of Parliament. Till 1965, they held office for life, and the few remaining senators appointed before that date retain their seats. Senators must be at least 30 years old, and must have real estate worth $4,000 net, and total net assets of at least $4,000. They must reside in the province or territory for which they are appointed: in Quebec, they must reside, or have their property qualification, in the particular one of Quebec's 24 senatorial districts for which they are appointed.

The Senate can initiate any bills except money bills. It can amend, or reject, any bill whatsoever. It can reject any bill as often as it sees fit. No bill can become law unless it has been passed by the Senate.

In theory these powers are formidable. But the Senate has not rejected a bill for over 40 years, and it very rarely makes any amendment that touches the principle of a bill. The many amendments it does make are almost always clarifying, simplifying, tidying-up amendments, and are almost always accepted by the House of Commons. The Senate's main work is done in its committees, where it goes over bills clause by clause, and hears evidence, often voluminous, from groups and individuals who would be affected by the particular bill under review. This committee work is especially effective because the Senate has many members with specialized knowledge and long years of legal, business or administrative experience. There are ex-ministers, ex-premiers of provinces, ex-mayors, eminent lawyers and experienced farmers.



In recent decades, the Senate has taken on a new job: investigating important public problems such as poverty, unemployment, inflation, the aging, land use, science policy, Indian affairs, relations with the United States, and the efficiency (or lack of it) of government departments. These investigations have produced valuable reports, which have often led to changes in legislation or government policy. The Senate usually does this kind of work far more cheaply than Royal Commissions or task forces, because its members are paid already and it has a permanent staff at its disposal.

## The House of Commons

The House of Commons is the major law-making body. It has 282 members, one from each of 282 constituencies. In each constituency, or riding, the candidate who gets the largest vote is elected, even if his or her vote is less than half the total. The number of constituencies is changed after every census, pursuant to the Constitution and the *Electoral Boundaries Readjustment Act* that allot parliamentary seats roughly on the basis of population. Every province must have at least as many members in the Commons as it has in the Senate. The constituencies vary somewhat in size, within prescribed limits. The present distribution is as follows:

| *Area* | *Seats* |
|---|---|
| Ontario | 95 |
| Quebec | 75 |
| British Columbia | 28 |
| Alberta | 21 |
| Manitoba | 14 |
| Saskatchewan | 14 |
| Nova Scotia | 11 |
| New Brunswick | 10 |
| Newfoundland and Labrador | 7 |
| Prince Edward Island | 4 |
| Northwest Territories | 2 |
| Yukon Territory | 1 |
| Total | 282 |

## Political parties

Our system could not work without political parties. Our major existing federal parties – Progressive Conservative, Liberal, and New Democratic – were not created by any law, though they are now recognized by the law. We, the people, have created them ourselves. They are voluntary associations of people who hold broadly similar opinions on public questions.

The party that wins the largest number of seats in a general election ordinarily forms the government. Its leader becomes prime minister. But if the government in office before an election comes out of the election with the second largest number of seats, it has the right to meet the new House of Commons and see whether it can get enough support from the minor parties to give it a majority. It may find itself able to carry on. This happened in 1925-26 and in 1972.

The second largest party (or, in the circumstances just described, the largest) becomes the official Opposition, and its leader becomes "the person holding the recognized position of leader of the Opposition." The leader of the Opposition gets the same salary as a minister. The leader of any party which has at least 12 seats also gets a higher salary than an ordinary MP. These parties also get public money for research.

Why? Because we want criticism, we want watchfulness, we want the possibility of an effective alternative government if we are displeased with the one we have. The party system reflects the waves of opinion as they rise and wash through the country. There is much froth, but deep swells move beneath them, and they set the course of the ship.

## The prime minister

As we have already noted, the prime ministership (premiership), like the parties, is not created by law, though it is recognized by the law. The prime minister is, normally, a member of the House of Commons (there have been two in the Senate, in 1891-92 and 1894-96). A non-member could hold the office but would, by custom, have to get elected to a seat very soon. If the prime minister loses his seat in an election, he can

remain prime minister as long as his party keeps a majority in the House of Commons, though again, he must, by custom, win a seat very promptly. The traditional way of arranging this is to have a member of the majority party resign, thereby creating a vacancy, which gives the defeated prime minister or non-member party leader the opportunity to run in a by-election.

The prime minister is appointed by the Governor General. Ordinarily, the appointment is automatic. If the Opposition wins more than half the seats in an election, or if the government is defeated in the House of Commons and resigns, the Governor General must call on the leader of the Opposition to form a new government.

The prime minister used to be described as "the first among equals" in the cabinet, or as "a moon among minor stars." This is no longer so. He is now incomparably more powerful than any of his colleagues. Not only does he choose them in the first place, but he can also ask any minister to resign, and if the minister refuses, the prime minister can advise the Governor General to remove him and the advice would invariably be followed. Cabinet decisions do not necessarily go by majority vote. A strong prime minister, having listened to the opinions of all his colleagues, and finding most, or even all, opposed to his own view, may simply announce that his view is the policy of the government, and, unless his dissenting colleagues are prepared to resign, they must bow to his decision.

## The cabinet

As mentioned above, the prime minister chooses the members of the cabinet. All of them must be or become members of the Queen's Privy Council for Canada. Privy Councillors are appointed by the Governor General on the advice of the prime minister, and membership is for life, unless a member is dismissed by the Governor General on the same advice, which has never happened. All cabinet ministers and former cabinet ministers, the Chief Justice of Canada and former chief justices and usually, also, ex-Speakers of both houses are always members, and various other prominent citizens are made members simply as a mark of honour. The Privy Council as such meets only very rarely, on a few ceremonial occasions such as the accession of a new King or Queen. The cabinet, "the Committee of the Privy Council," is the operative body.

By custom, almost all the members of the cabinet must be members of the House of Commons, or, if not already members, must win seats. Since Confederation, 70 men who were not members of either house have been appointed to the cabinet, but they had to get seats in the House or the Senate within a reasonable time, or resign from the cabinet. General McNaughton was Minister of National Defence for nine months without a seat in either house; but after he had twice failed to get elected to the Commons, he had to resign. Senators can be members of the cabinet: the first cabinet, of 13 members, had five senators. But since 1911, *usually*, there has been only one cabinet minister in the Senate, and that one without portfolio, the leader of the government in the Senate. Of course no senator can sit in the House of Commons, and no member of the House of Commons can sit in the Senate. But a minister from the House of Commons, may, by invitation of the Senate, come to that chamber and speak, though not vote.

By custom, every province must, if possible, have at least one cabinet minister. Of course, if a province does not elect any government supporters, this becomes difficult. But in that case, the prime minister may put a senator from that province into the cabinet; or he may get some member from another province to resign his seat and then try to get a person from the "missing" province elected there. In 1921, the Liberals did not elect a single member from Alberta. The prime minister, Mr. King, solved the problem of Alberta representation in the cabinet by appointing Hon. Charles Stewart, Liberal ex-premier of Alberta, and getting him elected for the Quebec constituency of Argenteuil. Whether Mr. King's ploy would work now is quite another question. The voters of today do not always look with favour upon outside candidates "parachuted" into their ridings. The smallest province, Prince Edward Island, has often gone unrepresented in the cabinet for years at a stretch.

By custom also, Ontario and Quebec must have 10 or 12 ministers each, provided each province has elected enough government supporters to warrant such a number. By custom, at least one minister from Quebec

*Since the general election of 1979, there have been three of four senators in the cabinet. The Conservatives, in 1979, elected very few MPs from Quebec, and the Liberals, in 1980, only two from the four Western provinces. So both parties had to eke out the necessary cabinet representation for the respective provinces by appointing more senators to the cabinet.

must be an English-speaking Protestant, and there must be at least one minister from the French-speaking minorities outside Quebec, normally from New Brunswick or Ontario, or both. It used to be necessary to have also at least one English-speaking (usually Irish) Roman Catholic minister, and in recent years Canada's multicultural nature has been reflected in cabinet representation from Jewish and non-English, non-French, ethnic minorities.

## The Speakers

The Speaker of the Senate is appointed by the cabinet.

The Speaker of the House of Commons is elected by the House itself, after each general election. He or she must be a member of the House. The Speaker is its presiding officer, decides all questions of procedure and order, controls the House of Commons staff and is expected to be impartial, non-partisan, and as firm in enforcing the rules against the prime minister as against the humblest Opposition backbencher.

Until recently, the Commons' Speaker was, by custom, chosen from among the members of the party in power, though there are cases (the most recent in 1979) where a Speaker of one party carried on after a change of government, and one (1957) where the government was ready to support a member from one of the minor parties. The Speaker sometimes drops his or her membership in a party, and runs in the next general election as an independent. In 1985, the Commons adopted a new system whereby any member, except Ministers of the Crown and party leaders, may stand for election as Speaker, and the election itself is conducted by secret ballot in the Commons Chamber. The system goes a further step toward securing the Speaker against any lingering suspicion that he or she is the government's choice and that the Speakership is simply one of a number of prime ministerial appointments.

This new procedure also interrupts the custom of an alternating French- and English-speaking Speaker in the Commons, although this tradition is still retained in the Senate. In the House of Commons, if the Speaker is English-speaking, the Deputy Speaker is French-speaking, and vice versa. The Deputy Speaker is sometimes chosen from the Opposition.

# What goes on in Parliament

## Opening of a session

If the opening of a session also marks the beginning of a newly-elected Parliament, you will find the members of the House of Commons milling about in their chamber, a body without a head. On a signal, the great doors of the chamber are slammed shut. They are opened again after three knocks, and the Gentleman Usher of the Black Rod makes his appearance from the Senate. He has been sent by the deputy of the Governor General, who is not allowed to enter the Commons, to announce that His Honour the Deputy of the Governor General desires the immediate attendance of Honourable Members in the Chamber of the Honourable, the Senate. The members then proceed to the Senate Chamber, where the Speaker of the Senate says: "I have it in command to let you know that Her Excellency the Governor General does not see fit to declare the causes of his summoning the present Parliament of Canada until the Speaker of the House of Commons shall have been chosen according to law." The members then return to their own chamber and elect their Speaker.

In the afternoon, the Governor General arrives in the Senate, Black Rod is again dispatched to summon the House of Commons, and the members troop up again to stand at the bar of the Upper House. The Speaker then informs the Governor General of his or her election, and asks for Her Excellency's confirmation of all the traditional rights and privileges of the Commons. The Speaker of the Senate delivers that confirmation, and the Governor General delivers the Speech from the Throne, partly in English, partly in French.

The speech, which is written by the cabinet, sets forth the government's view of the condition of the country and the policies it will follow, and the bills it will introduce, to deal with that condition. The members of the House of Commons then return to their own chamber, where, normally, the prime minister immediately introduces a Bill Respecting the Administration of Oaths of Office. This is a dummy bill, never heard of again till the opening of the next session. It is introduced to reassert the House of Commons' right to discuss any business it sees fit before considering the Speech from the Throne. This right was first asserted by the English House of Commons more than 300 years ago, and is reasserted there every session, by a similar *pro forma* Bill No. 1.

This formal reassertion of an ancient right of the Commons has been of very great practical use in Canada, more than once. In 1950, for example, a nation-wide railway strike demanded immediate action by Parliament. So the moment the House came back from the Senate Chamber, the prime minister introduced Bill No. 1, but this time no dummy; this time a bill to end the strike, to send the railway workers back to work, and this bill was put through all its stages, passed by both houses, and received Royal Assent before either house considered the Speech from the Throne at all. Had it not been for the traditional assertion of the right of the Commons to do anything it saw fit before considering the speech, this essential, emergency legislation would have been seriously delayed.

The address in reply to the Speech from the Throne is, however, normally the first real business of each session (a ''sitting'' of the House lasts a day; a ''session'' lasts for months, and may even last for over a year, though there must be at least one sitting per year). A government supporter moves, and another government supporter seconds, a motion for an address of thanks to the Governor General for the gracious speech. The opposition parties move amendments critical of the government and its policies, and expressing want of confidence in the government. Debate on this address and the amendments is limited to eight days, and ranges over the whole field of the nation's business.

## A working day in the Commons

At 11:00 a.m. on Mondays, Tuesdays, and Thursdays, and at 10:00 a.m. on Fridays, (and 2:00 p.m. on Wednesdays), the Speaker takes the chair. The sergeant-at-arms lays the mace (a gold-plated war club, symbol of the House's authority) on the long table in front of the Speaker, and the Speaker reads the daily prayer. Government supporters sit to the Speaker's right, members of opposition parties to the left. The first few rows of desks on the government side, near the centre, are occupied by the prime minister and the cabinet. Opposite them sit the leader of the official Opposition and the chief members of his party. The leaders of the smaller opposition parties sit in the front row farther down the chamber, at the opposite end from the Speaker. At the long table sit the Clerk of the House and the Clerk's Assistant, who keep the official record of decisions of the House. At desks in the wide space between government and Opposition sit the Hansard reporters, English and French, who take down the speeches word for word, for publication the next day. There is simultaneous translation, English and French, for all speeches, and all the proceedings are televised and recorded.

After certain routine proceedings, the House considers Government Orders on most days. At 2:15 p.m. (11:15 a.m. on Fridays) comes the question period, when members (chiefly Opposition) question ministers on government actions and policies. This is usually a very lively 45 minutes, and is a most important part of the process of keeping the government responsible and responsive.

Most of the rest of the day is taken up with bills, which are in fact proposed laws. Any member can introduce a bill, but most of the time is reserved for bills introduced by the government.

The final hour of each day (except Wednesdays) is reserved for the consideration of any business sponsored by a private member; that is, by any member who is not part of the cabinet.

A cabinet minister or backbench member proposing a bill first moves for the House's "leave" to introduce it. This is almost invariably given automatically, and always without debate. Next comes the motion that the bill be read a first time, and printed. This also is almost invariably automatic, and, again, always without debate. On a later day comes the motion for second reading. This is the stage at which members debate the principle of the bill. If it passes second reading, it goes to a committee of the House. Usually, nowadays, it is to a legislative committee, of which there are as many as there are bills referred to them. Each such committee may hear witnesses, and considers the bill, clause by clause, before reporting it (with or without amendments) back to the House. The legislative committee ceases to exist once it has presented its report. Most of these committees have approximately 10 members, and the parties are represented in proportion to their strength in the House itself. Appropriation bills (based on the Estimates) which seek to withdraw money from the Consolidated Revenue Fund are dealt with by the whole House acting as a committee.

Committees, sitting under less formal rules than the House, examine bills clause by clause. Each clause has to be passed. Any member of the committee can move amendments. When all the clauses have been dealt with, the chairman reports the bill to the House, with any amendments that have been adopted.

When a legislative committee has reported the bill to the House, members at this "report stage" may move amendments to the various clauses (usually, amendments they have not had the opportunity to propose in committee). When these have been passed, or rejected, the bill goes to third reading. If the motion for third reading carries, the bill goes to the Senate, where it goes through much the same process. Bills initiated in the Senate, and passed there, come to the Commons, and go through the same stages as Commons bills. No bill can become law, become an act, unless it has been passed by both houses and has been assented to, in the Queen's name, by the Governor General or a deputy of the Governor General (usually a Supreme Court judge). Assent has never been refused to a federal bill, and our first prime minister declared roundly that refusal was obsolete and had become unconstitutional. In Britain, Royal Assent has never been refused since 1707.

In addition to legislative committees, whose sole function is to examine bills referred to them after second reading, the House of Commons also maintains a system of standing committees. There are 25 standing committees (Agriculture, Communications and Culture, National Health and Welfare and so on) whose members are appointed at the beginning of a Parliament to consider matters referred to them by the House, and to report their findings and proposals to the House for its consideration.

Included in the work of standing committees is the consideration of the Main Estimates, which are sent to the appropriate standing committees by specific Orders of Reference on or before March 1 of each year, and are reported back to the House no later than May 31 of the same year.

Finally, standing committees are designated as having certain matters permanently referred to them (such as reports tabled in the House pursuant to a statute, and the annual report of certain Crown corporations). Each of these automatic Orders of Reference is permanently before the committees, and may be considered and reported on as the committees deem appropriate.

The House of Commons can, and does, set up special committees for the examination of particular subjects. It can also establish, with the Senate, joint committees of the two houses, and there are a few joint standing committees.

**End of a session**

When both houses have finished a session's business, Parliament is ''prorogued'' till the next session, which must, by law, come within a year. The Governor General comes to the Senate; Black Rod is sent down to the Commons to request the attendance of members in the Upper Chamber, where the Governor General makes a speech, reviewing what the session has accomplished.

# Provincial legislatures and municipal governments

Every province has a legislative assembly (there are no upper houses) that is very similar to the House of Commons and transacts its business in much the same way. All bills must go through three readings, and receive Royal Assent by the lieutenant-governor. In the provinces, assent has been refused 28 times, the last in 1945, in Prince Edward Island. Members of the assembly are elected from constituencies established by the legislature, roughly in proportion to population, and whichever candidate gets the largest vote is elected, even if his or her vote is less than half the total.

Municipal governments – cities, towns, villages, counties, districts, metropolitan regions – are set up by the provincial legislatures, and have such powers as the legislatures see fit to give them. Mayors, reeves, and councillors are elected on such basis as the provincial legislature prescribes.

There are now close to 5,000 municipal governments in the country. They provide us with such services as water supply, sewage and garbage disposal, roads, sidewalks, street lighting, building codes, parks, playgrounds, libraries and so forth. Schools are generally looked after by school boards or commissions elected under provincial education acts.

# Living government

We are apt to think of government as something static; as a machine that was built and finished long ago. Actually, since our democratic government is really only the sum of ourselves, it grows and changes as we do.

Canada today is not the Canada of 1867, and neither is the act that made it. It has been changed by many amendments, all originated by ourselves. How we govern ourselves has also been changed by judicial interpretation of the written Constitution, by custom and usage, by arrangements between the national and provincial legislatures and governments as to how they would use their respective powers. These other ways in which our system has changed, and is changing, give it great flexibility, and make possible a multitude of special arrangements for particular provinces or regions within the existing written Constitution, without the danger of "freezing" some special arrangement that might not have worked out well in practice.

There may still be many changes. Some are already in process, some have been slowly evolving through our first century as a nation, and some are only glimmerings along the horizon. They will come, as they always do in the parliamentary process, at the hands of many governments, with the clash of loud debate, and with the ultimate agreement of the majority who cast their votes.

We are concerned with the relations between French-speaking and English-speaking Canadians, and with the division of powers between the federal and provincial governments. We always have been. But the search for areas of agreement and the making of new adjustments has

been a continual process from the beginning. The recognition of the French fact, which was limited in 1867, now embraces, in greater or lesser degree, the whole of Canada. All federal services must be available where required, in either language. Federal, Quebec and Manitoba courts have always had to be bilingual. New Brunswick is now constitutionally bilingual. Criminal justice must now be bilingual wherever the facilities exist or can be made available.

The country's resources grow; the provinces' needs change. Some provinces are rich, others relatively poor. Federalism makes possible a pooling of financial resources and reduction of such disparities. Yet there are always areas of dispute, new adjustments required, and special problems to be met. Federal-provincial conferences, bringing together all the heads of government, are fairly new in our history. But they are now very frequent, and a major force in evolving new solutions. Indeed, the *Constitution Act, 1982* provides that the prime minister must convene such a conference within 15 years to review the procedure for constitutional amendment.

Historically, Canada is a nation founded by the British and the French. Yet it is now a great amalgam of many peoples. They have common rights and needs, and their own particular requirements within the general frame of the law. All these must be recognized. We are far yet from realizing many of our ideals but we have made progress.

As a country we have grown richer, but we have paid a price in terms of environmental pollution. We are leaving the farms and bushlands and crowding into the cities. Ours is becoming an industrialized, urbanized, computerized society, and we face the difficulties of adapting ourselves and our institutions to new lifestyles.

These changes have produced a new concern for an environment that our forefathers took for granted. We believe in just and peaceful sharing, but how is that to be achieved? We have gained for ourselves a certain measure of security for the aged and sick and helpless, yet poverty is still with us. So are regional disparities.

These are all problems of government, and therefore your problems. They all concern millions of people and are therefore difficult to solve. Parliaments and parties, like life, have no instant remedies but they have one common aim. It is to get closer to you, to determine your real will, and to endeavour to give it form and thrust for action. That is the work you chose them for, and it can only be done in the end with your help. When you take an interest in your community, when you form an opinion in politics, and when you go to cast your vote, you are part of government.

# Governors General of Canada since Confederation

| | | Assumed Office |
|---|---|---|
| 1 | Viscount Monck, G.C.M.G. | July 1, 1867 |
| 2 | Lord Lisgar, G.C.M.G. | Feb. 2, 1869 |
| 3 | The Earl of Dufferin, K.P., G.C.M.G., K.C.B. | June 25, 1872 |
| 4 | The Marquis of Lorne, K.T., G.C.M.G. | Nov. 25, 1878 |
| 5 | The Marquis of Lansdowne, G.C.M.G. | Oct. 23, 1883 |
| 6 | Lord Stanley of Preston, G.C.B. | June 11, 1888 |
| 7 | The Earl of Aberdeen, K.T., G.C.M.G. | Sept. 18, 1893 |
| 8 | The Earl of Minto, G.C.M.G. | Nov. 12, 1898 |
| 9 | Earl Grey, G.C.M.G. | Dec. 10, 1904 |
| 10 | Field Marshal H.R.H. The Duke of Connaught, K.G. | Oct. 13, 1911 |
| 11 | The Duke of Devonshire, K.G., G.C.M.G., G.C.V.O. | Nov. 11, 1916 |
| 12 | General The Lord Byng of Vimy, G.C.B., G.C.M.G., M.V.O. | Aug. 11, 1921 |
| 13 | Viscount Willingdon of Ratton, G.C.S.I., G.C.I.E., G.B.E. | Oct. 2, 1926 |
| 14 | The Earl of Bessborough, G.C.M.G. | April 4, 1931 |
| 15 | Lord Tweedsmuir of Elsfield, G.C.M.G., G.C.V.O., C.H. | Nov. 2, 1935 |
| 16 | Major General The Earl of Athlone, K.G., P.C., G.C.B., G.C.M.G., G.C.V.O., D.S.O. | June 21, 1940 |
| 17 | Field Marshal the Rt. Hon. Viscount Alexander of Tunis, K.G., G.C.B., G.C.M.G., C.S.I., D.S.O., M.C., LL.D., A.D.C. | April 12, 1946 |
| 18 | The Rt. Hon. Vincent Massey, P.C., C.H. | Feb. 28, 1952 |
| 19 | General The Rt. Hon. Georges Philias Vanier, P.C., D.S.O., M.C., C.D. | Sept. 15, 1959 |
| 20 | The Rt. Hon. Daniel Roland Michener, P.C., C.C. | April 17, 1967 |
| 21 | The Rt. Hon. Jules Léger, C.C., C.M.M. | Jan. 14, 1974 |
| 22 | The Rt. Hon. Edward Richard Schreyer, P.C., C.C., C.M.M., C.D. | Jan. 22, 1979 |
| 23 | The Rt. Hon. Jeanne Sauvé, P.C., C.C., C.M.M., C.D. | May 14, 1984 |

# Canadian prime ministers since 1867*

| | | |
|---|---|---|
| 1 | Rt. Hon. Sir John A. Macdonald | July 1, 1867 to Nov. 5, 1873 |
| 2 | Hon. Alexander Mackenzie | Nov. 7, 1873 to Oct. 8, 1878 |
| 3 | Rt. Hon. Sir John A. Macdonald | Oct. 17, 1878 to June 6, 1891 |
| 4 | Hon. Sir John J.C. Abbott | June 16, 1891 to Nov. 24, 1892 |
| 5 | Rt. Hon. Sir John S.D. Thompson | Dec. 5, 1892 to Dec. 12, 1894 |
| 6 | Hon. Sir Mackenzie Bowell | Dec. 21, 1894 to April 27, 1896 |
| 7 | Rt. Hon. Sir Charles Tupper, Bart | May 1, 1896 to July 8, 1896 |
| 8 | Rt. Hon. Sir Wilfrid Laurier | July 11, 1896 to Oct. 6, 1911 |
| 9 | Rt. Hon. Sir Robert L. Borden | Oct. 10, 1911 to Oct. 12, 1917 |
| 10 | Rt. Hon. Sir Robert L. Borden** | Oct. 12, 1917 to July 10, 1920 |
| 11 | Rt. Hon. Arthur Meighen | July 10, 1920 to Dec. 29, 1921 |
| 12 | Rt. Hon. William Lyon Mackenzie King | Dec. 29, 1921 to June 28, 1926 |
| 13 | Rt. Hon. Arthur Meighen | June 29, 1926 to Sept. 25, 1926 |
| 14 | Rt. Hon. William Lyon Mackenzie King | Sept. 25, 1926 to Aug. 7, 1930 |
| 15 | Rt. Hon. Richard Bedford Bennett (became Viscount Bennett, 1941) | Aug. 7, 1930 to Oct. 23, 1935 |

*SOURCE: *Guide to Canadian Ministers since Confederation*. Public Archives of Canada, 1974.

**During his second period in office, Prime Minister Borden headed a coalition government.

| | | |
|---|---|---|
| 16 | Rt. Hon. William Lyon Mackenzie King | Oct. 23, 1935<br>to Nov. 15, 1948 |
| 17 | Rt. Hon. Louis Stephen St.-Laurent | Nov. 15, 1948<br>to June 21, 1957 |
| 18 | Rt. Hon. John G. Diefenbaker | June 21, 1957<br>to April 22, 1963 |
| 19 | Rt. Hon. Lester B. Pearson | April 22, 1963<br>to April 20, 1968 |
| 20 | Rt. Hon. Pierre Elliott Trudeau | April 20, 1968<br>to June 4, 1979 |
| 21 | Rt. Hon. Charles Joseph Clark | June 4, 1979<br>to March 3, 1980 |
| 22 | Rt. Hon. Pierre Elliott Trudeau | March 3, 1980<br>to June 30, 1984 |
| 23 | Rt. Hon. John Napier Turner | June 30, 1984<br>to Sep. 17, 1984 |
| 24 | Rt. Hon. Martin Brian Mulroney | Sep. 17, 1984 |